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ANNE BHOLAT, and THE REGENTS
OF THE UNIVERSITY OF
CALIFORNIA erroneously named as UC
Regents and UCLA School of Medicine
Family Medicine International Medical
Graduate Program

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HANNA RHEE,

Plaintiff,

vs.

MICHELLE ANNE BHOLAT, UCLA
SCHOOL OF MEDICINE FAMILY
MEDICINE INTERNATIONAL
MEDICAL GRADUATE PROGRAM,
UC REGENTS.

Defendants.

CASE NO. SACV18-00975PA(JC)

**REQUEST FOR JUDICIAL
NOTICE OF DEFENDANTS
MICHELLE ANNE BHOLAT AND
THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA
AND MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT
THEREOF**

Date: October 15, 2018

Time: 1:30 p.m.

Judge: Hon. Percy Anderson

Trial Date: None Set

Filed: June 4, 2018

TO HANNA RHEE, PLAINTIFF IN PRO SE:

PLEASE TAKE NOTICE that on October 15, 2018 at 1:30 p.m. or as soon
thereafter as the matter may be heard in Courtroom 9A of the above-entitled Court,
located at First Street Courthouse, 350 W. 1st Street, 9th Floor, Los Angeles,

4834-6809-3040.1

1 California 90012, Defendants MICHELLE ANNE BHOLAT and THE REGENTS
2 OF THE UNIVERSITY OF CALIFORNIA erroneously named as UC Regents and
3 UCLA School of Medicine Family Medicine International Medical Graduate
4 Program, will and hereby do request this Court take judicial notice of the following
5 documents pursuant to Rule 201 of the Federal Rules of Evidence:

- 6 (1) The public record regarding Plaintiff's medical license with the
7 Medical Board of California (Exhibit 1);
- 8 (2) The Accusation filed against Plaintiff with the Medical Board of
9 California (Exhibit 2);
- 10 (3) The Complaint filed by Plaintiff in the Eastern District of California
11 (Exhibit 3);
- 12 (4) Plaintiff's Motion for Change of Venue filed in the Eastern District
13 action (Exhibit 4);
- 14 (5) The Motion to Dismiss filed by the Medical Board of California in the
15 Eastern District action (Exhibit 5);
- 16 (6) The Motion to Dismiss filed by the individual defendants in the Eastern
17 District action (Exhibit 6);
- 18 (7) The findings and recommendations granting the Motions to Dismiss
19 (Exhibit 7); and

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1 (8) The findings and recommendations denying Plaintiff's Motion for
2 Change of Venue. (Exhibit 8).

3 DATED: September 7, 2018 Respectfully submitted,

4 LEWIS BRISBOIS BISGAARD & SMITH LLP
5

6
7 By: /s/ Alaleh T. Khosrowpour

8 Thomas G. Oesterreich

9 Alaleh T. Khosrowpour

10 Geoffrey M. Hersch

11 Attorneys for MICHELLE ANNE

12 BHOLAT, and THE REGENTS OF THE
13 UNIVERSITY OF CALIFORNIA

14 erroneously named as UC Regents and

15 UCLA School of Medicine Family

16 Medicine International Medical Graduate
17 Program
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendants THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
4 (“The Regents”) and MICHELLE ANNE BHOLAT (“Dr. Bholat”) respectfully
5 request the Court take judicial notice of information incorporated by reference in the
6 Complaint and easily verifiable which are fundamental in showing the Complaint
7 should be dismissed.

8 **II. STATEMENT OF RELIEF SOUGHT**

9 Pursuant to Rule 201 of the Federal Rules of Evidence, Defendants request
10 the Court take judicial notice of the following:

- 11 (1) The public record regarding Plaintiff’s medical license with the
12 Medical Board of California (Exhibit 1);
- 13 (2) The Accusation filed against Plaintiff with the Medical Board of
14 California (Exhibit 2);
- 15 (3) The Complaint filed by Plaintiff in the Eastern District of California
16 (Exhibit 3);
- 17 (4) Plaintiff’s Motion for Change of Venue filed in the Eastern District
18 action (Exhibit 4);
- 19 (5) The Motion to Dismiss filed by the Medical Board of California in the
20 Eastern District action (Exhibit 5);
- 21 (6) The Motion to Dismiss filed by the individual defendants in the Eastern
22 District action (Exhibit 6);
- 23 (7) The findings and recommendations granting the Motions to Dismiss
24 (Exhibit 7); and
- 25 (8) The findings and recommendations denying Plaintiff’s Motion for
26 Change of Venue. (Exhibit 8).

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1 **III. STATEMENT OF FACTS**

2 **A. Investigation and Accusation with the Medical Board of California.**

3 Plaintiff obtained a certificate (No A116932) to practice medicine from the
4 Medical Board of California (“MBOC”) on or about May 11, 2011. (See Exhibit 1).
5 In or around March 2015, Plaintiff started working at the Orchard Hospital Medical
6 Specialty Center (“Orchard Hospital”) in Gridley, California. (See Exhibit 2 at ¶ 2;
7 see also Exhibit 3 p. 6).

8 In May 2015, Orchard Hospital entered into a three-year employment
9 agreement with Plaintiff. (See Exhibit 2 at ¶ 10; see also Exhibit 3 at p. 10).
10 Sometime between May 2015 and September 2015, Orchard Hospital initiated an
11 investigation of Plaintiff after receiving a number of complaints from patients and
12 other staff members. (See Exhibit 2 at ¶ 11; see also Exhibit 3 at p. 9). On
13 September 17, 2015, Plaintiff resigned her privileges at Orchard Hospital while the
14 investigation was still ongoing. (See Exhibit 2 at ¶ 11; see also Exhibit 3 at p. 9). On
15 November 16, 2015, Orchard Hospital filed a mandatory report pursuant to
16 California Business & Professions Code section 805 notifying MBOC of Plaintiff’s
17 resignation during a pending investigation. (See Exhibit 2 at ¶ 11; see also Exhibit 3
18 at p. 9).

19 In January 2017, MBOC investigators interviewed Plaintiff in connection
20 with the report by Orchard Hospital. (See Exhibit 2 at ¶¶ 13–14; see also Exhibit 3
21 at p. 10). On or about July 18, 2017, Dr. Bholat, an MBOC member, signed an order
22 requiring Plaintiff to undergo a psychiatric evaluation based on the declaration of
23 Reinhardt Hilzinger, M.D. HQUI, an MBOC consultant. (See Exhibit 2 at ¶ 18; see
24 also Exhibit 3 at p. 10). In August 2017, Plaintiff submitted to a psychiatric
25 examination by Nathan Lavid, M.D. (See Exhibit 2 at ¶ 18; see also Exhibit 3 at p.
26 10). On January 9, 2018, MBOC posted an Accusation (Case No. 800-2015-018187)
27 on their website and Plaintiff received notice of the accusation on January 11, 2018.

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(See Complaint at p. 4–5; see also Exhibit 2; Exhibit 3 at p. 11). The Accusation is currently pending and Plaintiff’s license has not been revoked. (See Exhibit 1).

B. Plaintiff’s Complaint in the Eastern District Court.

On January 17, 2018, Plaintiff filed a Complaint (Docket No. 2018CV-00105- GEB-CMK) in the U.S. District Court for the Eastern District of California against MBOC, Dr. Bholat, and Orchard Hospital, amongst others. (See Complaint at p. 4–5; see also Exhibit 3). Plaintiff’s Complaint in the Eastern District asserts several claims under 42 U.S.C. § 1983 for depriving her of equal protection, violating her right to privacy, violating her right to freedom of speech, press, and to peaceably assemble, and violating her right to work. (See Complaint at p. 4–5; see also Exhibit 3 at pp. 12–15). On March 5, 2018, Plaintiff filed a Motion for Change of Venue to transfer the matter to the United States District Court for the Central District of California. (See Exhibit 4).

On April 6, 2018, MBOC filed a Motion to Dismiss or Stay the Action arguing, in relevant part, that *Younger* abstention applies as the state license proceedings are still pending, MBOC and those acting on its behalf are immune from suit under the Eleventh Amendment, and Plaintiff’s Complaint fails to state a claim upon which relief may be granted. (See Exhibit 5).

On July 12, 2018, United States Magistrate Judge Craig Kellison (“Judge Kellison”) issued findings and recommendations on the Motion to Dismiss the Eastern District Action. (See Exhibit 7). Specifically, Judge Kellison recommended the Court grant the Motion based on *Younger* abstention and the immunity under the Eleventh Amendment. (See Exhibit 7). The same day, Judge Kellison denied Plaintiff’s Motion for Change of Venue to this Court finding Plaintiff’s contention that Los Angeles is more diverse culturally, economically, and religiously diverse insufficient. (See Exhibit 8).

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1 **IV. LEGAL STANDARD**

2 “The court may judicially notice a fact that is not subject to reasonable
3 dispute because it... can be accurately and readily determined from sources whose
4 accuracy cannot reasonably be questioned.” (USCS Fed. Rules Evid. R. 201(b)(2);
5 *compare United States v. Richie* (2003) 342 F.3d 903, 908 (“A court may...
6 consider certain materials – documents attached to the complaint, documents
7 incorporated by reference in the complaint, or matters of judicial notice – without
8 converting the motion to dismiss into a motion for summary judgment”)).

9 **V. ARGUMENT**

10 **A. Defendants Request the Court Take Judicial Notice because**
11 **Plaintiff Extensively Refers to the Information in the Complaint.**

12 “We have said that a document is not ‘outside’ the complaint if the complaint
13 specifically refers to the document and if its authenticity is not questioned.” (*Branch*
14 *v. Tunnell* (1994) 14 F.3d 449, 453). In this case, Plaintiff’s Complaint extensively
15 refers to her medical license, the Accusation filed with MBOC, and the prior action
16 in the Eastern District of California, including the Motions to Dismiss (See
17 Complaint). As a result, Defendants request the Court take judicial notice of
18 Plaintiff’s public record with MBOC, the Accusation, the Complaint filed in the
19 Eastern District, and the Motions to Dismiss because Plaintiff extensively refers to
20 these documents in the Complaint thereby incorporating them by reference and the
21 authenticity of these documents cannot be questioned.

22 **B. Defendants Further Request the Court Take Judicial Notice of the**
23 **Above-Referenced Facts because They Are Verifiable by Resort to**
24 **Public Records.**

25 A court may take judicial notice of matters of public record, unpublished
26 orders in related proceedings, and records and reports of administrative bodies. (See
27 *Mack v. South Bay Beer Distribs.* (1986) 798 F.2d 1279, 1282; see also *Kourtis v.*

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1 *Cameron* (2005) 419 F.3d 989, 994 fn. 2 *citing Shaw v. Hahn* (1995) 56 F.3d 1128,
 2 1129 fn. 1). In this case, argues she lost business after an Accusation was filed with
 3 the Medical Board of California regarding her medical license. (See Complaint at p.
 4 4–5; see also Exhibit 1). Further, Plaintiff previously filed a related suit, which
 5 named Dr. Bholat as a Defendant, and filed a Motion for Change of Venue to this
 6 Court. (See Exhibit 3; see also Exhibit 4). Defendants therefore request the Court
 7 take judicial notice of the attached evidence, which is accurately and readily
 8 verifiable by reference to sources which cannot be reasonably questioned.

9 **VI. CONCLUSION**

10 For the foregoing reasons, Defendants respectfully request the Court take
 11 judicial notice of adjudicative facts pursuant to Federal Rule of Evidence 201.
 12 Specifically, Defendants request the Court take judicial notice of the following:

- 13 (1) The public record regarding Plaintiff's medical license with the
 14 Medical Board of California (Exhibit 1);
- 15 (2) The Accusation filed against Plaintiff with the Medical Board of
 16 California (Exhibit 2);
- 17 (3) The Complaint filed by Plaintiff in the Eastern District of California
 18 (Exhibit 3);
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 20 action (Exhibit 4);
- 21 (5) The Motion to Dismiss filed by the Medical Board of California in the
 22 Eastern District action (Exhibit 5);
- 23 (6) The Motion to Dismiss filed by the individual defendants in the Eastern
 24 District action (Exhibit 6);
- 25 (7) The findings and recommendations granting the Motions to Dismiss
 26 (Exhibit 7); and

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1 (8) The findings and recommendations denying Plaintiff's Motion for
2 Change of Venue. (Exhibit 8).

3
4 DATED: September 7, 2018

Respectfully submitted,

5 LEWIS BRISBOIS BISGAARD & SMITH LLP
6

7
8 By: /s/ Alaleh T. Khosrowpour

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